IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.MC.No. 5663 of 2003()

MC.150/1998 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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PETITIONER:

K.P.MOHAMMED KUTTY,
S/O.ABDU RAHIMAN,
ARIPARAMBIL, MADOOR,
KERALA WATER AUTHORITY,
P.O. TIRUR.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. SAINABA, D/O. MOHAMMED,
   PALLATTU PARAMBIL HOUSE,
   P.O. MATTANNUR, TIRUR TALUK.

2. STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.K.SHIBILI NAHA
R2 PUBLIC PROSECUTOR SRI GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRLM.C. NO. 5663 of 2006

Dated 23rd day of November, 2006

ORDER

petitioner who is the respondent in M.C.150/98 in the court of the Judicial Magistrate of the First Class, Tirur with respect to the offence under section 3 of the Muslim Woman's (Protection of Rights on Divorce) Act, 1986, has sought for setting aside the order of the court below as well as the order of the revisional court in Crl.R.P. No.6/2002 affirming the order of the Magistrate. It is the case of the petitioner that he is partially deaf and is getting a meagre salary from his employment in the Water Authority as a Mazdoor and that his salary is only Rs.3500/- per month. He is also having another wife and five children in that marriage. It is further submitted that he is not having any landed property or other income.

2. The application was opposed by the counsel for the respondent.

3. It is seen that the trial court, vide Annexure A order has directed the petitioner to pay a sum of Rs.3000/- towards iddat period and Rs.45,000/- as future maintenance and fair provision. The court has calculated the rate of future maintenance at the rate of Rs.750/- per month for a period of 5 years. The evidence adduced in the matter is only the oral testimony of PW1- the petitioner and CPW-1 the respondent. The court has relied on the admitted income of the petitioner/respondent. I find that the amount awarded cannot be said to be excessive nor can the finding be treated as perverse. I find that there is no scope for interference in the matter and further reducing the amount.

The Crl.M.C. is dismissed.

K.R.UDAYABHANU,JUDGE.

Kvm/-

kvm/-